IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01/10/2002

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.32526 of 2002 and W.P.No. 37187 of 2002

W.P.No.32526 of 2002

S.Santhanam .. Petitioner

-Vs-

1. The Secretary
Locak Administration &
Rural Department
Secretariat
Chennai-600 009.

2. The District Collector
Dindigul. .. Respondents

W.P.No.37187 of 2002:

Mrs.R.Perumayee Ammal .. Petitioner

versus

1. The District Collector
Dindigul.

2. The President
Chettynaickenpetti Panchayat

Dindigul. .. Respondents

W.P.No.32526 of 2002 is filed under under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus as stated therein and W.P.No.37187 of 2002 is filed under Article 22 6 of the Constitution of India for issue of a writ of Certiorari, as stated therein.

!For petitioner in W.P.No.
32526 of 2002 : No appearance

For petitioner in W.P.No.
37187 of 2002 : Ms.Selvi George

^For respondents in both these
writ petitions : Mr.D.Krishna Kumar
Special Government Pleader

:ORDER

Mr.D.Krishna Kumar, learned Special Government Pleader takes notice on behalf of the respondents.

2. The issue that arise in both these writ petitions are common, and hence, both these writ petitions were taken up together.

3. By proceedings dated 23.7.2002 of the District Collector, Dindigul, which is impugned in W.P.No.32526 of 2002and by proceedings dated 27.7.2002 of the District Collector, Dindigul, which is impugned in W.P.No.37187 of 2002, the approved layout of the sites was cancelled, finding that there is a violation to Rule 3(1) of the Tamil Nadu Panchayats (Building) Rules, which contemplates the prior concurrence of the Director of Town and Country Planning for such approval.

4. According to Ms.Selvi George, learned counsel for the petitioner in W.P.No.37187 of 2002, challenges the impugned proceedings on the only ground before passing of the impugned order dated 27.7.2002, cancelling the approval of right by the respective panchayats, the District Collector,

Dindigul, has not given a fair and reasonable opportunity to the petitioner.

5. Mr.D.Krishna Kumar, learned special Government Pleader appearing for the respondents, submits that the petitioners, having obtained approval of layout contrary to the Rules, are not entitled to complain against the violation of principles of natural justice.

6. I have given a careful consideration to the submissions of both sides.

7. Rule 3(1) of the Tamil Nadu Panchayats Building Rules 1997, reads as follows:

" Application for approval of layout of sites.-- (1) No owner or other persons shall layout a street, lane, passage or pathway or subdivide or utilise the land or any portion or portions of the same on the site or sites for building purposes until a layout plan has been approved by the Executive Authority who shall get prior concurrence of the Director of Town and Country Planning or his authorised Joint Director or Deputy Director of Town and Country Planning for such approval. In cases of layout abutting National Highways, State Highways and By-Pass Roads thereof, the concurrence of the Divisional Engineer (Highways and Rural Works) under whom the control of the road is vested shall also be obtained by the Executive Authority. The application for approval or such layout plan or sub-division shall be submitted to the Executive Authority in the form specified in Appendix-A with such variation as circumstances may require. "

8. It is not in dispute that the prior concurrence of the Director of Town and Country Planning or his authorised Joint Director or Deputy Director before approving the layout of sites is mandatory, as no owner or other persons shall layout a street, lane, passage or pathway or sub-divide or utilise the land or any portion or portions of the same on the site or sites for building purposes without such prior concurrence.

9. If that be so, the approval of the layouts of the impugned sites, sanctioned by the Panchayat, in my considered opinion, is illegal, apparent on the face of the records.

10. In any event, even now the petitioner is not able to satisfy this Court that he has got prior concurrence of the Director of Town and Country Planning or his authorised Joint Director or Deputy Director for such approval the layout of sites. Hence, by withdrawal of consent of approval of the layout of sites by the impugned proceedings of the District Collector,

Dindigul, in my considered opinion, is not prejudicial in any way, as the petitioners are still given an opportunity to get approval of the statutory authorities, viz., the Director of Town and Country Planning or his authorised Joint Director or Deputy Director and to re-submit the layout to the council for approval and consent. Therefore, the grievance of the petitioner that the impugned proceedings violates the principles of natural justice, is not tenable in law. Hence, finding no merits, these writ petitions are dismissed, without prejudice to the rights of the petitioners to resubmit their

applications with the prior concurrence of the Director of Town and Country Planning or his authorised Joint Director or Deputy Director for approval of the layout of sites in question.

In the result, these writ petitions are dismissed. No costs. Consequently, W.P.M.P.Nos.47258 and 55900 of 2002 are also dismissed.

Index: Yes
Internet: Yes
01.10.2002
ksv
1. The Secretary
Locak Administration &
Rural Department
Secretariat
Chennai-600 009.

2. The District Collector
Dindigul.